



Department of Toxic Substances Control

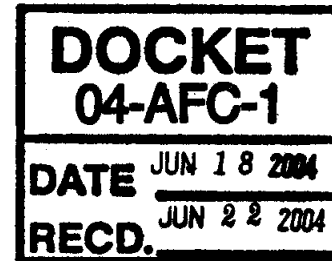
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Arnold Schwarzenegger
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June 18, 2004

Mr. Bill Pfanner
Energy Commission Project Manager
California Energy Commission
1516 Ninth Street
Sacramento, California 95814-5512



Dear Mr. Pfanner:

Thank you for the opportunity to review the San Francisco Electric Reliability Project Application for Certification, Docket No. 04-AFC-1 (AFC). The City and County of San Francisco is proposing to construct and operate a simple cycle power plant called the San Francisco Electric Reliability Project (SFERP) in San Francisco. The project will be located within the existing Potrero Power Plant site.

In keeping with the intent of Executive Order D-26-01 and D-28-01 (Executive Orders) to expedite review of proposed power plants for construction and operation, DTSC conducted a requested 'fatal-flaw' analysis of the above-referenced project. The following comments represent the separate evaluations of DTSC's two main programs, Hazardous Waste Management Program (HWMP) and Site Mitigation Program (SMP).

Standardized Permitting and Corrective Action Branch's comments:

- Section 8.13.2.1 Federal.** Please note that California is not authorized to implement all current programs and regulations under RCRA. For example, California is not authorized to implement the staging piles regulations in Title 40, Code of Regulations, Section 264.554. In the event the United States Environmental Protection Agency (US EPA) promulgates new regulations which may affect the SFERP, the SFERP will also be required to comply with those new federal regulations unless US EPA authorizes States to implement the program.
- Section 8.13.2.2 State.** It is stated that the hazardous waste management will be subject to, and comply with, the California Hazardous Waste Control Law during construction and operation of the SFERP facility. As commented above, California is not currently authorized to implement all laws under RCRA. This section should state that hazardous waste management during the construction and operation of the SFERP project is subject to and will comply with both the California Hazardous Waste Control Law and RCRA.

3. **Section 8.13.6 Waste Management Methods and Mitigation.** Please note that if any treatment (e.g., neutralization) of hazardous waste is performed onsite, a grant of authorization such as Permit-By-Rule or Conditional Authorization would be needed from the local CUPA or DTSC.
4. **Section 8.13.6.1.2 Soils.** The Storage Requirements section on page 8.13-20 states that Title 40 of the Code of Federal Regulations, Sections 264.551 and 264.554, specifies requirements for construction and monitoring of temporary storage of remediation waste exhibiting RCRA characteristics. Title 40, Code of Federal Regulations, Section 264.551 is applicable only to Corrective Action Management Units (CAMUs) that were approved before April 22, 2002, or for which substantially complete applications (or equivalents) were submitted to US EPA on or before November 20, 2000. DTSC does not believe that the SFERP has an approved CAMU or has a substantial complete application submitted to the US EPA. Therefore, this citation should be deleted.

Title 40, Code of Federal Regulations, Section 264.554 requires the waste staging pile to be designated by the US EPA Director through a RCRA hazardous waste facility permit or, at an interim status facility, in a closure plan or order. The SFERP does not have a hazardous waste facility permit nor interim status authorization. Therefore, it would be unrealistic to expect the SFERP to obtain a RCRA hazardous waste facility permit for the sole purpose of designating a waste staging pile.

This section also states that the California Health and Safety Code, Section 25123.3, defines remediation waste storage as the temporary accumulation of non-RCRA contaminated soil that is generated and held onsite, and that is accumulated for the purpose of onsite treatment pursuant to a certified, authorized or permitted treatment method. The correct term in California Health and Safety Code, Section 25123.3, is "Remediation waste staging", not "Remediation waste storage." The definition in the AFC is incomplete. DTSC believes that entire definition of remediation waste staging should be used. "Remediation waste staging" means the temporary accumulation of non-RCRA contaminated soil that is generated and held onsite, and that is accumulated for the purpose of onsite treatment pursuant to a certified, authorized or permitted treatment method, such as a transportable treatment unit, if all of the following requirements are met:

- (A) The hazardous waste being accumulated does not contain free liquids;
- (B) The hazardous waste is accumulated on an impermeable surface, such as high density polyethylene (HDPE) of at least 20 mills that is supported by a foundation, or high density polyethylene of at least 60 mills that is not supported by a foundation;

- (C) The generator provides controls for windblown dispersion and precipitation runoff and run-on and complies with any stormwater permit requirements issued by a regional water quality control board;
- (D) The generator has the accumulation site inspected weekly and after storms to ensure that the controls for windblown dispersion and precipitation runoff and run-on are functioning properly; and
- (E) The staging area is certified by a registered engineer for compliance with the standards specified in subparagraphs (A) to (D), inclusive.

Site Mitigation Program's comments:

1. There is another energy project proposed for the existing Potrero Power Plant site called Potrero-Mirant. This project is listed on the California Energy Commission's website as being suspended to November 14, 2004. Therefore, these two projects could potentially proceed with construction and operation at or near the same time. Potential cumulative impacts have not been considered in this document.
2. Section 8.13.6.1.2 and 8.13.6.2.3.
 - a. DTSC suggests the CEC require San Francisco Regional Water Quality Control Board (RWQCB) approval of the Site Mitigation Plan. As the lead administering agency for this Site (per California Health and Safety Code, Chapter 6.65) they are responsible for ensuring that the site characterization and cleanup activities at this Site are in compliance with all federal, state and local environmental requirements.
 - b. The proposed construction will limit potential cleanup options for this part of the property. Therefore, DTSC recommends that the CEC require the Site Mitigation Plan address all characterization and remediation activities required to complete the cleanup of this parcel, including sufficient characterization to address the recognized environmental conditions listed in the Phase I Environmental Site Assessment Report prepared by Camp, Dresser & McKee dated October 1997.
 - c. DTSC recommends that the Site Mitigation Plan address handling of soil during construction to ensure compliance with Bay Area Air Quality Management District requirements for construction projects as only references to the San Francisco Environmental Code Chapter 10 (Transportation of Aggregate Materials) and a Department of Public Works Order 171,378 were noted. DTSC was unable to locate a copy of the Public Works Order and therefore cannot comment on the adequacy of the measures proposed.
3. Section 8.13.6.1.4.
 - a. The Site Mitigation Plan must verify that the contractors staging area meets

the requirements for a consolidation area under HSC section 25110.10 as the contractors staging area is not located within the Site/facility or on a contiguous property. Based upon the description, the contractor's staging area appears to be a transfer facility.

- b. The Site Mitigation Plan must verify that the satellite accumulation areas meet the requirements for remote areas under HSC section 25121.3.
 - c. The Site Mitigation Plan must address transportation and manifesting issues. If any hazardous wastes, including soil containing hazardous waste levels of chemicals, is taken offsite to the construction staging area, it would need to be manifested and transported using a hazardous waste hauler. Any hazardous waste would need to be placed into appropriate containers and labeled at the point of generation.
4. Section 8.14.4.4. This section appears to discuss the groundwater underlying the entire Potrero Power Plant site. It would be useful to include an additional paragraph specific to the proposed construction project area.
5. Section 8.14.5.2.4. Groundwater contamination, including LNAPL and DNAPL, has been identified underlying the PG&E Potrero Site. Therefore, it is important to evaluate the impacts of dewatering activities for the proposed construction areas. Dewatering activities can result in groundwater movement from areas which may not have otherwise impacted the project area. Contaminated groundwater may be moved into unimpacted areas on the project site. This evaluation should identify whether it is necessary to implement control measures to minimize the amount of water being extracted. This evaluation should also identify any need for pretreatment of the extracted groundwater prior to disposal. As dewatering activities have the potential to impact ongoing site characterization and remediation activities at the PG&E Potrero Site, DTSC requests that the above evaluation be contained in the Site Mitigation Plan and that the RWQCB review and approve this document prior to site mobilization.
- If the possibility exists that workers may come into contact with contaminated groundwater, a qualified professional should also evaluate the potential worker health and safety issues and this should be addressed in the Site Health and Safety Plan.
6. Section 8.7. As the project area is within a known hazardous substance release site, DTSC recommends that the CEC require the preparation of a Health and Safety Plan in compliance with California Code of Regulations, Title 8, section 5192, et seq., by a certified industrial hygienist that evaluates the chemical levels in soil and in groundwater and proposes appropriate personal protective equipment and monitoring activities.

Mr. Bill Pfanner
June 18, 2004
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If you have any questions, please contact Janet Naito at (510) 540-3833 or
jnaito@dtsc.ca.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Barbara J. Cook". The signature is fluid and cursive, with a large initial "B" and a stylized "C" at the end.

Barbara J. Cook, P.E., Chief
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**BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT COMMISSION OF THE
STATE OF CALIFORNIA**

**APPLICATION FOR CERTIFICATION
FOR THE SAN FRANCISCO ELECTRIC
RELIABILITY PROJECT**

**Docket No. 04-AFC-01
PROOF OF SERVICE**

**Revised 6/15/04*

I, Theresa Epps, declare that on June 22, 2004, I deposited copies of the attached **REVIEW OF THE SAN FRANCISCO ELECTRIC RELIABILITY PROJECT APPLICATION FOR CERTIFICATION** in the United States mail in Sacramento, CA with first class postage thereon fully prepaid and addressed to the following:

DOCKET UNIT

*Send the original signed document plus
12 copies to the following address:*

**CALIFORNIA ENERGY COMMISSION
Attn: Docket No. 04-AFC-01
DOCKET UNIT, MS-4
1516 Ninth Street
Sacramento, CA 95814-5512**

*In addition to the documents sent to the
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individual copies of all documents to:*

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I declare that under penalty of perjury that the foregoing is true and correct.

Theresa L. Epps
(Signature)

* * * *

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